

**DEPARTMENT OF THE SECRETARY OF STATE
BUREAU OF CORPORATIONS, ELECTIONS AND COMMISSIONS
DIVISION OF ELECTIONS**

**Chapter 525: RULES FOR ADMINISTERING THE CENTRAL ISSUANCE AND
PROCESSING OF UOCAVA ABSENTEE BALLOTS**

SUMMARY: In order to facilitate voting by uniformed service voters and overseas voters in compliance with the federal Military and Overseas Voter Empowerment Act (“MOVE Act”), legislation was enacted authorizing the Secretary of State to centrally issue, receive and count absentee ballots for uniformed service voters and overseas voters. These rules establish procedures for the central issuance and processing of absentee ballots, including processes to provide for the examination, counting and storage of ballots in the same manner as regular absentee ballots that are issued by municipal election officials.

Section 1. Definitions

1. **UOCAVA voter.** UOCAVA voter means any voter covered by the Uniformed and Overseas Citizen Absentee Voting Act. This includes any “overseas voter” or “uniformed service voter” as those terms are defined in 21-A M.R.S. §1, sub-§§ 27-B and 46-B.
2. **Secretary of State.** References to the Secretary of State include staff of the Department of the Secretary of State authorized to perform the duties described in this chapter.

Section 2. Issuing Absentee Ballots

1. **Applications.** Applications for absentee ballots may be received directly from the voter as provided in 21-A M.R.S. §§ 753-A and 781-A or they may be forwarded from the municipality of residence after being received from the voter. Either the municipal clerk or the Secretary of State will enter the most recent absentee ballot request date into the Central Voter Registration system and indicate whether the voter designated electronic or mail delivery. If neither is designated, the ballot will be issued by mail provided there is a valid military or overseas mailing address on file.
2. **Issuance by Secretary of State.** State absentee ballots will be issued by the Secretary of State, in accordance with 21-A M.R.S. §753-B. The Secretary of State shall fulfill all requirements for issuing UOCAVA absentee ballots as provided in 21-A M.R.S. §753-B, except that the Secretary of State staff shall perform the duties required of the municipal clerk.
3. **Deadline to issue ballot.** The Secretary of State shall issue a state absentee ballot for any primary, general, referendum or special election at least 46 days prior to the date of that election to any UOCAVA voter who has a valid absentee ballot request on file with the Secretary of State. After the 46-day deadline, the Secretary of State shall continue to issue absentee ballots upon receipt of any valid request filed with the Secretary of State.

4. **List of absentee ballots.** The Secretary of State shall create and maintain, in the Central Voter Registration System, an alphabetical list of the UOCAVA voters who requested or were furnished absentee ballots. This list shall meet the requirements of 21-A M.R.S. §753-B, sub-§6.

Section 3. Receipt of Absentee Ballots from UOCAVA Voters

1. **By mail.** When the Secretary of State receives a return envelope apparently containing an absentee ballot the Secretary of State shall follow the procedures provided in 21-A M.R.S. §756.
2. **By authorized electronic means.** If a UOCAVA voter communicates to the Secretary of State by email, fax or mail that he or she wishes to return the voted ballot by electronic means, then the Secretary of State shall authorize and provide instructions for electronic transmission of an image of that voter's voted state ballot or Federal Write-In Absentee Ballot (FWAB) by email or fax to the Secretary of State. Upon receipt of one or more faxed or emailed ballot image(s) from a voter who was previously authorized to transmit the ballot(s) electronically, the Secretary of State shall immediately place an Absentee Ballot Privacy Sheet on top of the voted ballot(s) and fold the ballots around the privacy sheet so that the voting contents are concealed, place the ballots into an absentee ballot return envelope, and attach the voter's signed affidavit to the outside of the envelope. The Secretary of State shall then follow the procedures provided in 21-A M.R.S. §756.

Section 4. Appointment of personnel to process and count UOCAVA absentee ballots

1. **Required personnel.** UOCAVA absentee ballots will be processed by a warden, deputy warden and election clerks appointed by the Secretary of State.
2. **Qualifications.** Persons appointed to process UOCAVA absentee ballots must be at least 18 years of age, registered to vote and residents of the State.
3. **Appointment by Secretary of State.** Each qualified party will be asked to nominate individuals to fill each position. The Secretary of State must consider these nominations but may appoint any qualified voters to serve. The Secretary of State shall appoint a warden and a deputy warden who have different party affiliations - either enrolled in different parties or one who is enrolled in a party and one who is unenrolled. The Secretary of State shall appoint a sufficient number of election clerks from each of the major parties, and may appoint election clerks who are enrolled in a minor party or who are unenrolled. All persons who serve in these positions are entitled to receive compensation at a reasonable rate as determined by the Secretary of State.
4. **Selecting election clerks to serve at an election.** The Secretary of State shall select election clerks to serve at each election from the list of appointees, unless a sufficient number is not available. The Secretary of State shall attempt to maintain a balance between the number of election clerks representing each of the two major parties.
5. **Oath of office.** Before assuming the duties of office, the warden, deputy warden, and election clerks are sworn by a Dedimus Justice and the oath is recorded.

6. **Term of office.** Appointments of the warden, deputy warden and election clerks shall be made in the odd-numbered year and shall be effective for all statewide elections held during that year and the subsequent even-numbered year.
7. **Training.** The Secretary of State will provide training to all personnel appointed to process UOCAVA absentee ballots.
8. **Vacancies.** If a sufficient number of election clerks is not available to serve at an election, the Secretary of State may appoint the necessary number of election clerks to fill the vacancies. When filling a vacancy, the Secretary of State shall attempt to appoint a person with the same enrollment status as the person who vacated the position.
9. **Persons ineligible to be appointed to process UOCAVA ballots.** The following persons may not serve in this capacity:
 - A. An employee of a party or candidate;
 - B. A person having a direct pecuniary interest in the result of a referendum question;
 - C. A candidate or member of the candidate's immediate family.
 - D. Employees of the Legislature and elected state officials.

Section 5: Processing of UOCAVA ballots on Election Day

Absentee Ballots received from UOCAVA voters shall be processed and counted centrally as authorized by 21-A M.R.S. §783, sub-§3.

1. **Processing Time and Location Determined by Secretary of State.** At least 7 days prior to the election, the Secretary of State shall determine the time and location at which processing of UOCAVA absentee ballots will occur on election day. The Secretary of State also shall designate a time period prior to the starting time listed for processing for the public to examine absentee ballot applications and return envelopes. The Secretary of State shall post this information on its publicly accessible web site and provide written notice to the state party committees.
2. **Envelopes and lists delivered.** On election day, the Secretary of State shall deliver or have delivered to the personnel authorized to process UOCAVA ballots the return envelopes prescribed by 21-A M.R.S. §752, sub -§3, with the applications attached, if applicable, and a copy of the list required by 21-A M.R.S. §753-B, sub-§6.
3. **Processing procedure.** The UOCAVA absentee ballots shall be processed by the appointed personnel using the list provided by the Secretary of State. Ballots may be processed in batches if the Secretary of State provides the ballots to the authorized personnel in that manner.
 - A. **Signature of UOCAVA voter required.** When a UOCAVA voter is issued an absentee ballot by the Secretary of State, the voter will be issued an affidavit entitled "Maine Voter's Absentee Ballot Declaration/Affirmation". A voter who is issued an absentee ballot by mail also will be issued a ballot return envelope

which includes a space for the voter's signature. A UOCAVA voter must sign at least one of these documents (either the affidavit or the absentee ballot return envelope) in order for the ballot to be valid. If a ballot is returned by mail without a signature on either of these documents, the ballot must be rejected. A voter who is authorized to return a ballot by electronic means must complete and sign the affidavit and return it with the voted ballot in order for the ballot to be valid. If a ballot is returned by electronic means without a signature on the affidavit, the ballot must be rejected.

4. **Secretary of State to provide ballot box.** The Secretary of State shall provide an official ballot box or tabulator to be used by the personnel processing UOCAVA ballots in all state elections.
5. **Ballot receipt deadline.** In order to be valid, an absentee ballot must be received by the Secretary of State by 8 p.m. EST on election day. The ballot may be delivered by mail, in person or by an electronic means authorized by the Secretary of State.
6. **Tabulating of absentee ballots.** After all UOCAVA absentee ballots have been processed, but not earlier than 8 p.m. EST, personnel shall tabulate the ballots. Personnel are authorized to hand count the ballots or use a ballot tabulator, as provided by the Secretary of State. Personnel shall count the ballots as provided in 21-A M.R.S. §§ 695-696 and the Rules for Determining Voter Intent.
7. **Return of Votes Cast.** After all absentee ballots have been processed and tabulated (either by an electronic tabulator or by hand counting), the warden shall complete the statewide Return of Votes Cast provided by the Secretary of State. The Return shall be completed pursuant to 21-A M.R.S. §711.
8. **Materials returned to Secretary of State.** Voted ballots and other voting materials shall be sealed and returned to the Secretary of State once all ballots have been counted and the results publicly declared. Materials shall be sealed as provided in 21-A M.R.S. §698.
9. **Security of Voted Materials.** The Secretary of State shall take appropriate measures to ensure the safety and security of all ballots. Ballots and voting equipment must be secured in an area that is accessible only by staff of the Division of Elections or other Secretary of State personnel.
10. **Recount.** If a recount is requested for an electoral district in which one or more UOCAVA absentee ballots were cast, the Secretary of State shall notify the State Police who shall take physical control of all ballots and related materials involved in the recount as soon as possible.

Section 6: Applicability to Special Election

For a special election conducted by the state pursuant to Title 21-A, the Secretary of State may choose to delegate any of these processes to the municipal clerks in the affected municipalities.

STATUTORY AUTHORITY: 21-A M.R.S. § 783

EFFECTIVE DATE: